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**STATE OF HAWAII**  
**PUBLIC UTILITIES COMMISSION**  
**DEPARTMENT OF BUDGET AND FINANCE**  
465 S. KING STREET, #103  
HONOLULU, HAWAII 96813

August 10, 1998

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: Sandwich Isles Communications, Inc.;  
Designation of Eligible Telecommunications Carriers;  
CC Docket No. 96-45

Dear Ms. Salas:

In response to questions from a Federal Communications Commission's staff member regarding the designation of Sandwich Isles Communications, Inc. (Sandwich Isles) as an eligible telecommunications carrier by the Department of Hawaiian Home Lands (DHHL), the Public Utilities Commission of the State of Hawaii (HPUC) clarifies the following:

Authority to Designate Eligible Telecommunications Carriers

Under the federal Telecommunications Act of 1996 (the Act) and the laws of the State of Hawaii, the HPUC is the only entity in the State of Hawaii with the authority to designate whether a telecommunications carrier, such as Sandwich Isles, is eligible to receive universal service support. This conclusion is supported by the following authorities.

First, under section 214(e)(2) of the Act,<sup>1</sup> state commissions have the sole authority to designate a common carrier as an eligible telecommunications carrier for a service

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<sup>1</sup>Citations refer to sections of the Act codified under title 47 of the United States Code Annotated.

area designated by the state commission. "State commission" is defined under section 153(41) as "the commission, board, or official (by whatever name designated) which under the laws of any State has regulatory jurisdiction with respect to intrastate operations of carriers."

The HPUC is a "state commission", as defined by section 153(41) of the Act, since under Hawaii law, the HPUC is the entity with regulatory jurisdiction over the intrastate operations of telecommunications carriers. In this regard, section 269-6 of the Hawaii Revised Statutes (HRS) grants the HPUC with general supervision over all public utilities, and section 269-1, HRS, explicitly includes telecommunications carriers and telecommunications common carriers in the definition of "public utilities", thus, bringing these carriers under the regulatory jurisdiction of the HPUC. In addition, under Hawaii law, the HPUC is designated as the entity that is responsible for preserving and advancing universal service, and administering the universal service program.<sup>2</sup>

Based on the foregoing, the HPUC is clearly the only state commission authorized by federal and state law to designate eligible telecommunications carriers for universal service support purposes.

#### Status of Sandwich Isles' Designation as an Eligible Telecommunications Carrier

To date, Sandwich Isles has not applied for designation as an eligible telecommunications carrier. As a result, no determination has been made by the HPUC as to whether Sandwich Isles meets the requirements of Section 214(e) of the Act. Until such determination is made, we believe that Sandwich Isles should not receive universal service support.

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<sup>2</sup>HRS § 269-41 mandates the HPUC to preserve and advance universal service by: "(1) [m]aintaining affordable, just, and reasonable rates for basic residential service; (2) [a]ssisting individuals or entities who cannot afford the cost of or otherwise require assistance in obtaining or maintaining their basic service or equipment as determined by the commission; and (3) [e]nsuring that consumers are given the information necessary to make informed choices among the alternative telecommunications providers and services." Additionally, HRS § 269-41 authorizes the HPUC to administer the universal service program, including the establishment of criteria by which the purposes of the program are to be met.

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Thank you for your time and consideration. Should you have any questions or need further information, please call HPUC counsel Anthony D. Valdez at (808) 586-2013.

Very truly yours,



Paul Shigenaga  
Acting Administrative Director

PS:ADV:eh

c: Lori Wright, FCC Common Carrier Bureau  
Christine L. Boreyko, NECA - Low Income Programs (USAC)  
Department of Hawaiian Home Lands  
Sandwich Isles Communications, Inc.